

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

IN THE MATTER OF THREE SEALED
SEARCH WARRANTS

CASE NO. H 16-409 M

Consolidated with:

H 16-555 M

H 16-556 M

UNITED STATES' RESPONSE TO DEFENDANT'S BRIEF

The United States of America, by and through its undersigned attorneys, respectfully submits the following response to Justin Smith's "Comment to Government's Response to Defendant's Brief," Docket No. 56.

On page 3 of Smith's memorandum, it states, "One key issue in this case, which the government did not address publically [*sic*] with evidence, was whether or not the Special Agent's position that Smith was on video destroying records, was truthful or was a lie. Did perjured affidavits create a still unknown Bivens action?"

The contents of the storage unit video are accurately described in the sealed search warrant affidavit filed on April 12, 2016 in case number H-16-556 M at paragraphs 38-40, which includes screen shots from the video. None of the affidavits claim that the United States is in possession of a video showing Smith destroying evidence. Accordingly, Smith's claim is meritless.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing, which was filed electronically, has been delivered automatically to the attorney for Justin Smith by the ECF system.

/s/ Justin R. Martin
Justin R. Martin
Assistant United States Attorney